

MDES

REQUEST FOR PROPOSAL

FOR

APPEALS CONSULTING SERVICES

**Mississippi Department of Employment Security
1235 Echelon Parkway
Jackson, Mississippi 39213**

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TO: Prospective Offerors

FROM: Ms. Tommye Dale Favre, Executive Director, Mississippi
Department of Employment Security

SUBJECT: Request for Proposals for Appeals Consulting Services

1.0 SERVICES AND PRICES

The Mississippi Department of Employment Security ("MDES", "Agency" or "State") located in Jackson, MS, is seeking sealed proposals to establish a contract for certain Appeals Consulting Services ("Contractor" or "Consultant") at the Agency's facilities. These services required are detailed in 2.0 Statement of Work.

The contract to be awarded will be an hourly rate agreement and will require services to be performed by one selected individual contractor (consultant).

2.0 STATEMENT OF WORK

MDES is seeking individuals with abilities, qualifications and experience in the areas detailed in this section.

The Consultant will assist the Office of Legal Affairs in the training of the Administrative Law Judges (ALJs) in order to develop and maintain skilled and effective ALJs, to develop, deliver and support a training program for the Chief Administrative Law Judge, and to improve claims adjudications to reduce the number of appeals.

The Consultant will assist the Office of Legal Affairs to develop, implement and evaluate Appeals performance measurements. This includes complying with the Federal Quality standards. Consultant will also measure the effectiveness of the performance measurements in order to reduce the number of appeals sent to the Board of Review, track appeals, and measure customer satisfaction.

This individual will consult with the Office of Legal Affairs to develop a public education program that will improve accessibility to appeals and reduce the

number of appeals. This would be accomplished by designing and assisting in the production and distribution of internet video, printed materials, and public presentations. The consultant will work to establish educational relationships between other professional groups whose members appear before the ALJs.

The Consultant will work with the Office of Legal Affairs to design and implement organizational rules and policies to improve the appeals process and to create tasks for new positions within the appeals department that improve consistency and accountability.

The Consultant will assist the Board of Review to improve the effectiveness and efficiency of the Board.

The individual will consult with the Office of Legal Affairs and the Board of Review concerning disaster recovery by establishing a rapid response report and by exploring new methodologies for providing emergency appeals services to states in the event of a natural or man-made disaster.

MDES may also provide the Consultant with a more detailed list of the duties to be performed and reserves the right to add to, restructure or otherwise change the duties to be performed by the Consultant. This includes working with other departments within MDES and assisting them in the planning, creation, and implementation of more effective U.I. Benefit and Benefit Payment Control procedures, as well as providing training and strategic guidance to said departments.

3.0 DURATION

The term of the Consulting Contract shall be for one year starting February 12, 2007, through February 11, 2008. The period of performance under the initial contract term and under any extension shall be conditioned upon the receipt of funds and satisfactory performance during prior years as determined by the MDES.

4.0 RELATIONSHIP OF PARTIES

It is expressly understood and agreed that MDES enters into a contract with a Consultant based on the purchase of consulting services and not based on an employer-employee relationship or a joint venture relationship. For all purposes under this contract:

1. The Consultant shall not be deemed in any way, directly or indirectly, expressly, or by implication, to be an employee of MDES. Consultant will be an independent Contractor.
2. Amounts paid to the Consultant under a contract will be paid as a gross sum with no withholdings or deductions being made by MDES for any purpose.

5.0 CONTRACT ADMINISTRATION

The contract awarded subsequent to this solicitation shall be administered by the MDES. All invoices submitted by the Consultant for payment of services performed pursuant to the contract shall be submitted as follows:

Chief Fiscal Officer
Mississippi Department of Employment Security
P.O. Box 1699
Jackson, MS 39215-1699

The MDES will provide timely payment for services in accordance with Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the Agency within forty-five (45) days of receipt of invoice.

6.0 CONSULTANT SPECIFIC REQUIREMENTS

- 6.1 The Consultant must possess a Juris Doctor, and have at least ten (10) years experience as an Administrative Law Judge.
- 6.2 The Consultant must have experience as an administrative law consultant
- 6.3 The Consultant must have extensive knowledge of federal Unemployment Insurance Appeal laws and regulations. Experience with the State through a contractual or employee relationship is preferred.
- 6.4 The Consultant must possess in-depth knowledge of Administrative Law.
- 6.5 The Consultant must possess the following abilities:
 - Excellent writing and editing skills
 - Ability to work independently or with a team
 - Excellent verbal skills
 - Must have the ability to multi-task
 - Must be able to work well under pressure and meet deadlines

7.0 COMPENSATION FOR SERVICES

Compensation for services will be in the form of an hourly rate. The hourly rate will be \$80.00 per hour up to a maximum of 700 hours. Consultant will bill actual hours for services performed. No expenses will be reimbursed, the hourly rate includes payment for any expenses. The Consultant understands and agrees that MDES is exempt from the payment of taxes.

8.0 CONSULTANT REQUIREMENTS FOR PROPOSAL

8.1 References:

Each prospective Consultant must furnish, with their proposal, a listing of at least three (3) references. These references should be familiar with the offeror's abilities in the areas involved with this solicitation. The list shall include the name and telephone number of the reference. MDES will use these references to evaluate the prospective Consultant's ability to perform the services.

8.2 Resume:

Offeror must include a resume that includes education and experience in the areas described in 2.0 Statement of Work. The Agency will use the resume to evaluate the prospective Consultant's experience and qualifications to perform the required services.

8.3 Additional Information:

Prospective Consultant must furnish information about similar work performed and any other information that demonstrates the offeror's expertise and abilities in the areas of the solicitation. MDES will use this information to evaluate the prospective Consultant's abilities, qualifications, and experience.

9.0 LIST OF ATTACHMENTS AND FORMS

The following are included as attachments to this request. **Attachments A & B contain all of the forms that must be completed and submitted as part of the proposal.**

Attachment A – Vendor Statement of Compliance (to be signed by offeror)

Attachment B – References/Resume/Additional Information

Enclosure C - Contains a sample of the contract to be awarded as a result of this solicitation.

10.0 INSTRUCTIONS, CONDITIONS, AND NOTICES FOR PROPOSAL

1. Issuing Office

This Request for Proposal (RFP) is issued for the State of Mississippi by the MDES. The MDES reserves the right, without qualifications, to select any proposal as a basis for negotiation, to reject all proposals not meeting minimum requirements and to exercise its discretion and apply its judgment with respect to any proposal submitted. The MDES will conduct interviews once proposals have been evaluated. The individuals with the two highest rated proposals will be contacted for an interview with MDES. The MDES also reserves the right to make a contract award based on the submitted proposals and interviews conducted without conducting additional discussions and to interview additional offerors if considered necessary by MDES.

2. Schedule of Activities and Submission

RFP Issue Date		January 18, 2007
Proposal Opening	2 P.M. CST	February 7, 2007
Vendor Selected		February 12, 2007
Contract Effective Date		February 12 , 2007

Proposals must be submitted with one original and two (2) copies of the entire proposal. **All proposals must be received by the MDES no later than 2:00 p.m. CST, February 7, 2007.**

It is suggested that if a proposal is mailed to the MDES, it should be posted in certified mail with a return receipt guaranteed. The MDES will not be responsible for mail delays or lost mail.

Proposals should be mailed to and labeled as follows:

Appeals Consulting Services
MDES
RFP 07-05
January 18, 2007

Proposal for Appeals Consulting Services
Mississippi Department of Employment Security
Chief, Procurement & Other Services
P.O. Box 1699
Jackson, Mississippi 39215-1699

SEALED PROPOSAL – DO NOT OPEN

Or delivered and labeled as follows:

Proposal for Appeals Consulting Services
Mississippi Department of Employment Security
Chief, Procurement & Other Services
1235 Echelon Parkway
Jackson, Mississippi 39213

SEALED PROPOSAL – DO NOT OPEN

Submission Deadline: 2:00 p.m., CST February 7, 2007.

- a. Proposals shall be submitted in sealed envelopes or packages addressed to the Department specified above.
- b. One (1) original and two (2) copies shall be submitted.
- c. Receipt or acceptance of a proposal does not imply commitment or obligation on the part of the State of Mississippi to fund any proposal submitted.
- d. The parties submitting proposals are responsible for ensuring that they are delivered by the required time and assume all risks of delivery.
Proposals and modifications or corrections thereof received after the closing time specified will not be considered. Any proposal received subsequent to the specified date and time will be returned to the prospective Contractor unopened. The proposal must be signed by a company official with authorization to bind the Contractor to its provisions.

- e. Proposals submitted by wire, e-mail, electronic format, or phone will not be accepted. Proposals are to be submitted in writing with appropriate certification signatures as indicated.
- f. **All proposal material submitted in writing shall become the property of the MDES.**
- g. Proposals will not be opened publicly. Proposals will be made available for inspection only after award of contract.
- h. The proposal shall be valid for at least 60 days subsequent to the proposal opening.

3. Scope of Services

It shall be incumbent upon all offerors to understand the provisions of the scope of services and to obtain clarification prior to the date set for the receipt of proposals. Offerors are responsible for following up to see that any correspondence or communications are properly received.

4. Proprietary Information/ Mississippi Public Records Act

Proposals will be made available for inspection only after award of contract. For this reason, proprietary material should be clearly labeled as such. The classification of an entire proposal as proprietary or trade secret is not acceptable and may result in rejection of the proposal. Requests to review proprietary information will be handled in accordance with state law and applicable procedures. All disclosures of proposal information to interested parties will be made in compliance with MDES policies and procedures established in accordance with the Mississippi Public Records Act of 1983 defined in Section 25-61-1 et seq., of the Mississippi Code and exceptions found in Sections 25-61-9 and 79-23-1.

5. Acceptance of Proposals

The MDES reserves the right, in its sole discretion, to waive minor irregularities in proposals. A minor irregularity is one that does not affect the cost stated in the proposal, give one party an advantage or benefit not enjoyed by all parties or adversely impact the interest of the MDES. Waivers, when granted, shall in no way modify the RFP requirements or excuse a party from full compliance with the RFP specifications and other contract requirements if the party is awarded the contract.

6. Rejection of Proposals

Any proposal may be rejected in whole or in part when it is determined to be in the best interest of the State, as provided by the Personal Service Contract Review Board regulations. Reasons for rejecting a proposal include, but are not limited to:

- a. The proposal contains unauthorized amendments to the requirements of the RFP.
- b. The proposal is conditional.
- c. The proposal is incomplete or contains irregularities, which make the proposal indefinite or ambiguous.
- d. The proposal is not signed by an authorized representative of the party.
- e. The proposal contains false or misleading statements or references.
- f. The offeror is determined to be non-responsible.
- g. The proposal ultimately fails to meet the announced requirements of the State in some material aspect.
- h. The proposal price is clearly unreasonable.
- i. The proposal is not responsive, i.e., does not conform in all material aspects to the RFP.
- j. The supply or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternative or other acceptability criteria set forth in the RFP.

7. Disposition of Proposals

All submitted proposals become the property of the State of Mississippi.

8. Conditions of Solicitation

The release of this RFP does not constitute an acceptance of any offer, nor does such release in any way obligate the MDES to execute a contract with any party. The MDES reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the MDES.

Before preparing the proposal, all parties should note:

- a. The MDES will not be liable for any costs associated with the preparation of proposals.
- b. The award of a contract for any proposal is contingent upon the following:
 - 1) favorable evaluation of the proposal
 - 2) favorable interview evaluation
- c. Contracted parties will be required to assume full responsibility for all specified services and may subcontract only as specified in the RFP.

9. Withdrawal of Proposals

Proposals may be withdrawn by written notice received at any time before award.

10. Proposal Modifications

Any requests to modify proposals must be submitted in writing by the Primary offeror. All requests for modification must be submitted prior to the application submission deadline.

11. Amendments to Proposal Specifications

The MDES reserves the right to issue amendments to these guidelines. If it becomes necessary to amend said guidelines, the MDES will provide copies of the amendments to all persons that requested a copy of the RFP. Amendments will be posted to the website.

12. Acknowledgement of Amendments

Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgement must be received by the MDES by the time and at the place specified for receipt of proposals.

13. Information Regarding References

It is understood and agreed that the MDES reserves the right to request information relative to references.

14. Availability of Funds

If any contract ensues from this RFP and subsequent procurement process, it is understood and agreed between the contracting parties that the Agency shall be bound only to the extent of the funds available or which may become available for the purpose to this solicitation.

15. Award

The award, if made, will be by the Agency within sixty (60) days after opening the proposals. After the award is made by the Agency, a contract will be forwarded to your company for approval and execution. Actions taken by a proposer prior to the final approval of the contract will be at the Proposer's "OWN RISK" and the MDES will not be held liable for such action. In the event the successful Offeror fails to accept and sign the mutually negotiated contract, that Offeror shall be disqualified and the MDES shall initiate negotiations with the next highest ranked Offeror or cancel the procurement.

16. Equal Opportunity

Contracts, grants, loans, purchases and all other financial transactions are administered by the MDES equally to all without regard to race, color, creed, sex, religion, national origin, disability, or age. In addition, the Offeror understands that the MDES is an equal opportunity employer and maintains a policy that prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other unlawful consideration.

During the term of the contract, the Contractor must strictly adhere to this policy in its employment practices and provision of services.

17. Applicable Laws

The Offeror is responsible for complying with all applicable federal, state, and local laws and regulations.

18. Governing Law

This solicitation and any resulting contract shall be governed in all respects by the laws of the State of Mississippi and any litigation with respect thereto shall be brought in the courts of Jackson, Hinds County, Mississippi.

19. Representation Regarding Gratuities

The offeror represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

20. Certification of Independent Price Determination

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without (for the purpose of restricting competition) any consultation, communication or agreement with any other offeror or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate the prices proposed.

21. Procurement Regulations

Any resulting contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, MS, for inspection.

22. Evaluation Process

Proposals will be evaluated as described in this section. Interviews will be conducted with the individuals with the two highest scored proposals. MDES reserves the right to interview more prospective contractors if considered

necessary by MDES and to make the final determination as to the individuals' ability to meet requirements. The award will be made to the best proposal and most favorable interview. The criteria and the level of importance associated with each criterion are listed. The criteria for selecting the successful contractor are the following:

- 1) The degree of completeness of response of the specific requirements of the solicitation. **(Important)**
- 2) Individual's ability to provide the required services as exhibited by references. **(Very important) See Section 8.1 for instructions.**
- 3) Individual's experience and qualifications as evidenced by submission of a resume. **(Critical) See Section 8.2 for instructions.**
- 4) Additional information about similar work performed and any other information that demonstrates the offeror's expertise and abilities in the areas of the solicitation **(Very Important) See Section 8.3 for instructions.**
- 5) Interview. **(Critical)**

The score will be indicative of the degree of compliance of the proposal in meeting each component of the requirements in this RFP. Individuals must, upon request of the Agency, furnish satisfactory evidence of their ability to provide services in accordance with the terms and conditions of these requirements. The MDES may obtain information about the individuals' ability to meet requirements through reference checks or any other means available. The Agency will conduct interviews with the prospective contractors to further evaluate abilities required by this RFP as described in 6.0 Consultant Specific Requirements.

NOTE: The Agency will restrict the availability of the proposals during the evaluation process so as to improve the efficiency of the evaluation and award process. After award is made, all information and documents applicable to the awarded contract will be available to any business or person during normal working hours.

23. Contract Documents

Prospective Contractors are advised that this RFP and their proposal, should it be accepted, will become part of the final contract. Precedence of contractual documents will be Contract, RFP, and Proposal (as accepted).

ATTACHMENT A: VENDOR STATEMENT OF COMPLIANCE

Prospective Contractor's Representation Regarding Contingent Fees

The prospective Contractor represents as a part of such Contractor's proposal that such Contractor has not retained any person or agency on a percentage, commission, brokerage, or other contingent arrangement to secure this contract.

Debarment

The prospective Contractor certifies as a part of such Contractor's proposal that such Contractor is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contract issued by any political subdivision or agency of the State.

By submission of this proposal, I have agreed to adhere to **all conditions and requirements**, as set forth in the MDES Request for Proposal, including all the contract conditions contained in the draft contract enclosed. I further understand that my failure to comply with all requirements and qualifications will result in disqualification of my proposal relative to this procurement action. I have submitted appropriate documentation and completed proposal form(s) as necessary to substantiate this evaluation. If inadequate, my proposal will not meet the proposal requirements and will be evaluated as "Not Meeting Specifications."

To concur, sign below:

OFFEROR: _____ Date: _____

ATTACHMENT B

Mississippi Department of Employment Security
1235 Echelon Parkway
P. O. Box 1699
Jackson, Mississippi 39215-1699

Request for Proposal – References /Resume/Additional Information

Appeals Consulting Services

RFP 07-05

Offeror _____

Address _____

1.0 References:

Please list the three (3) required references indicating contact person and telephone number. See Section 8.1 for instructions.

1) _____
Name Tel. #

2) _____
Name Tel. #

3) _____
Name Tel. #

2.0 Resume: Send a resume that contains education and applicable experience.

See Section 8.2 for instructions.

3.0 Additional Information: Any other information about similar work performed and any other information that demonstrates the offerors' expertise and abilities in the areas of the solicitation. See Section 8.3 for instructions.

Please accept this as my formal proposal for Professional Services as specified by the Mississippi Department of Employment Security.

Authorized Signature:_____

Title:_____

Telephone No._____

Fax No._____

Email
address:_____

NOTE: All information requested on this proposal form must be completed. Incomplete or unsigned forms will be rejected.

Sample of a Consulting Services Contract between _____
And the Mississippi Department of Employment Security

This Consulting Services Contract (hereinafter referred to as "Contract") is entered into by and between _____, having his/her principal place of business at _____ (hereinafter referred to as "Contractor") and Mississippi Department of Employment Security having its principal place of business at 1235 Echelon Parkway, Jackson, MS 39213 (hereinafter referred to as "MDES" or "State").

This Contract sets forth the terms and conditions pursuant to which Contractor shall provide certain consulting services for the benefit of MDES.

Article 1 Term of Agreement

The term of the Consulting Contract shall be from February 12, 2007 through February 11, 2008. The period of performance under the initial Contract term and under any extension shall be conditioned upon the receipt of funds and satisfactory performance during prior years as determined by the MDES.

Article 2 Scope of Services

The Consultant will assist the Office of Legal Affairs in the training of the Administrative Law Judges (ALJs) in order to develop and maintain skilled and effective ALJs, to develop, deliver and support a training program for the Chief Administrative Law Judge, and to improve claims adjudications to reduce the number of appeals.

The Consultant will assist the Office of Legal Affairs to develop, implement and evaluate Appeals performance measurements. This includes complying with the Federal Quality standards. Consultant will also measure the effectiveness of the performance measurements in order to reduce the number of appeals sent to the Board of Review, track appeals, and measure customer satisfaction.

This individual will consult with the Office of Legal Affairs to develop a public education program that will improve accessibility to appeals and reduce the number of appeals. This would be accomplished by designing and assisting in the production and distribution of internet video, printed materials, and public

presentations. The consultant will work to establish educational relationships between other professional groups whose members appear before the ALJs.

The Consultant will work with the Office of Legal Affairs to design and implement organizational rules and policies to improve the appeals process and to create tasks for new positions within the appeals department that improve consistency and accountability.

The Consultant will assist the Board of Review to improve the effectiveness and efficiency of the Board.

The individual will consult with the Office of Legal Affairs and the Board of Review concerning disaster recovery by establishing a rapid response report and by exploring new methodologies for providing emergency appeals services to states in the event of a natural or man-made disaster.

MDES may also provide the Consultant with a more detailed list of the duties to be performed and reserves the right to add to, restructure or otherwise change the duties to be performed by the Consultant. This includes working with other departments within MDES and assisting them in the planning, creation, and implementation of more effective U.I. Benefit and Benefit Payment Control procedures, as well as providing training and strategic guidance to said departments.

Article 3 Resources

This Contract authorizes services at an hourly rate of \$80.00 per hour during the performance of this contract. The hourly rate will cover all hours, including hours outside of the normal business day and weekends up to the maximum of 700 hours.

Article 4 Consideration and Method of Payment

Contractor will bill actual hours for services performed, at the rate defined in Article 3.

MDES agrees to pay Contractor in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the State within forty-five (45) days of receipt of the invoice. Contractor

understands and agrees that MDES is exempt from the payment of taxes. All payments shall be in the United States currency.

Acceptance by Contractor of the payment from MDES shall operate as a release of all claims against the State by Contractor.

Article 5 Employment Status

Contractor shall, during the entire term of this Contract, be construed to be an Independent Contractor. Nothing in this Contract is intended to nor shall it be construed to create an employer-employee relationship or a joint venture relationship.

Contractor represents that it is qualified to perform the duties to be performed under this Contract. Moreover, Contractor agrees that he/she will be the sole performer of the duties to be performed under this Contract.

It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by MDES for any purpose from said Contract sum.

Article 6 Modification or Renegotiation

This Contract may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Contract if federal and/or state revisions of any applicable laws or regulations make changes in this Contract necessary. All modifications or amendments to this Contract must be approved by the Personal Service Contract Review Board.

Article 7 Availability of Funds

It is expressly understood and agreed that the obligation of MDES to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds, or of the State of Mississippi to

appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the State, the State shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. MDES shall pay all actual costs and expenses incurred by the Contractor up to the point of termination of this agreement. The effective date of termination shall be as specified in the notice of termination.

Article 8 Applicable Law

The Contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law provisions, and any litigation with respect thereto shall be brought in the courts of the State. The Contractor shall comply with applicable federal, state and local laws and regulations.

Article 9 Contract Documents

The Contractor is advised that the RFP and their proposal as accepted *is incorporated fully within and* is part of the final Contract. Precedence of Contractual documents will be Contract, RFP, and Proposal (as accepted).

Article 10 Hold Harmless

To the fullest extent allowed by law, Contractor agrees to indemnify, defend, save and hold harmless, protect, and exonerate MDES, the State, its officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses and costs of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, and attorney's fees and claims for damages arising out of or caused by Contractor and/or its partners, principals, agents, or employees in the performance of or failure to perform this Contract.

Article 11 Representation Regarding Contingent Fees

The Contractor represents that it has not retained a person to solicit or secure a State Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid or proposal.

Article 12 Representation Regarding Gratuities

The bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

Article 13 Procurement Regulations

The Contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, MS, for inspection.

Article 14 Authority to Contract

Contractor warrants that he/she has valid authority to enter in to this Contract; that entry into and performance under this Contract is not restricted or prohibited by any loan, security, financing, Contractual or other agreement of any kind, and notwithstanding any other provision of this Contract to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Contract.

Article 15 Notice

Any notice required or permitted to be given under this Contract shall be in writing and personally delivered or sent by facsimile provided that the original of such notice is sent by Certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at their business address listed herein. MDES address for notice is: Ms. Tommy Dale Favre, Executive Director, MDES, 1235 Echelon Parkway, Jackson, MS 39213. Contractor address for notice is: _____. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

Article 16 Disputes

Any dispute concerning a question of fact under this Contract which is not disposed of by agreement of the Contractor and MDES, shall be decided by the

Executive Director of MDES or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Contract. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

Article 17 Compliance with Laws

The Contractor understands that the State is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

Article 18 Stop Work Order

1. **Order to Stop Work** The State may, by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this Contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of cost allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the MDES shall either:

- (a) cancel the stop work order; or
- (b) terminate the work covered by such order as provided in the Termination section of this Contract.

2. **Cancellation or Expiration of the Order** If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the Contract shall be modified in writing accordingly, if:
 - (a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and
 - (b) the Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the State decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
3. **Termination of Stopped Work** If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
4. **Adjustment of Price Clause** Any adjustment in Contract price made pursuant to this clause shall be determined in accordance with the Modification or Renegotiation section of this Contract.

Article 19 Sovereign Immunity

By entering into this Contract with Contractor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

Article 20 Confidential Information

Contractor shall treat all MDES data and information to which it has access by its performance under this Contract as confidential to the extent that confidential

treatment of same is required under federal and/or state law and shall not disclose such data or information to a third party without specific written consent of MDES. In the event that Contractor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contractor shall promptly inform MDES and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Contract and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Contract on behalf of, or under the rights of the Contractor following any termination or completion of this Contract.

Article 21 Ownership of Documents and Work Products

All data, electronic or otherwise, collected by Contractor and all documents, notes, programs, databases (and all applications thereof), files, reports, studies, and/or other material collected and prepared by Contractor in connection with this Agreement, whether completed or in progress, shall be the property of MDES upon completion of this Agreement or upon termination of this Agreement. MDES hereby reserves all rights to the databases and all application thereof and to any and all information and/or materials prepared in connection with this Agreement. Contractor is prohibited from use of the above described information and/or materials without the express written approval of MDES.

Article 22 Survival

Any articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

Article 23 Debarment and Suspension Certification

Contractor certifies that he: (a) is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) has not, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal,

state or local) transaction or Contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) is not presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or Contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) has not, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

Article 24 Termination

Notwithstanding any other provision of this Contract to the contrary, this Contract may be terminated as follows: (a) upon the mutual, written agreement of the parties; (b) MDES shall be entitled to terminate, in addition to all other rights, this Contract at any time during the Contract. MDES shall provide Contractor with written notice of termination and shall pay all Contractor invoices representing services performed, through the date of termination; (c) Contractor shall be entitled to terminate the Contract with a minimum of two-week prior notice. The provisions of this section do not limit either party's right to pursue any other remedy available at law or equity.

For the faithful performance of the terms of this Contract, the parties have caused this Contract to be executed by their undersigned representatives.

This Contract has been entered into and executed by the parties hereto in duplicate originals.

Mississippi Department of Employment Security

By: _____

Ms. Tommye Dale Favre

Executive Director

Date: _____

Witness: _____

Witness: _____

Contractor: _____

By: _____

Date: _____

Witness: _____

Witness: _____